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Attorneys for Defendant
AMAZON.COM, INC.

IN THE UNITED STATES COURT IN AND FOR
DISTRICT OF UTAH, CENTRAL DIVISION

SANMEDICA INTERNATIONAL, LLC, a
Utah limited liability company; WESTERN
HOLDINGS, LLC, a Nevada limited
liability company,

Plaintiffs,

vs.

AMAZON.COM, INC., a Delaware
corporation,

Defendant.

No. 2:13-cv-00169-DN-PMW

**DECLARATION OF ROSS RACHEY IN
SUPPORT OF DEFENDANT
AMAZON.COM, INC.'S MOTION FOR
SUMMARY JUDGMENT**

I, Ross Rachey, hereby declare:

1. I am a Senior Program Manager, Compliance with Amazon.com. Until June 2014, I was a Compliance Specialist with Amazon.com. I have personal knowledge of the facts set forth in this declaration and am competent to testify thereto.

2. Amazon is the world's largest online retailer. Its mission to be the world's most customer-centric company. Amazon designed its website, Amazon.com, to enable Amazon and third-party sellers to sell millions of unique products across dozens of product categories. One such category is called "Health and Personal Care" (formerly "Health and Beauty"), which includes thousands of products ranging from nail polish to vitamins. As a Compliance Specialist, I provided support for several of Amazon's retail business categories, including the Health and Personal Care category.

3. As a result of my employment as a Compliance Specialist, I was familiar with Amazon's policies, procedures, and processes to regulate products that are sold, merchandised, or promoted on its websites. To preserve the integrity of its platform and the trust of its customers, Amazon expends substantial effort to ensure that only appropriate and legal products are offered and sold on Amazon.com. Amazon uses automated software tools that search for prohibited items, then performs a manual review of items identified as potentially privileged by the automated tools. Due to the volume of products offered by third parties on the Amazon.com site, Amazon's efforts to police its site are imperfect, and third-parties are in some cases able to evade Amazon's policing efforts and offer prohibited items on the site.

4. Amazon may prohibit the offer or sale of a product for numerous reasons, including that it does not comply with applicable law or poses a customer safety risk. Amazon posts examples of these products in its "Restricted Products" pages in its Seller Central database maintained for and accessible by those selling on the Amazon platform. These pages remind sellers that it is their responsibility to comply with Amazon's policies.

The pages also advise sellers that Amazon reserves the right, in its sole discretion, to determine whether a product is appropriate.

5. While Amazon has the discretion to determine whether a product is appropriate, it bases that discretion on objective criteria. Amazon identifies product prohibitions through a variety of means, including performing legal research to determine whether products may be legally sold under federal and state law, reviewing federal and state regulatory releases on dangerous and illegal products, and researching product safety issues brought to Amazon's attention by its customers, sellers, internal investigators, or the media.

6. Amazon's policy on "Drugs, Drug Paraphernalia & Dietary Supplements," which includes specific examples of products that may not be sold on Amazon.com, is publicly available at https://sellercentral.amazon.com/gp/help/external/help.html/ref=xx_200164490_cont_200164330?ie=UTF8&itemID=200164490&language=en_US. A true and correct copy of this policy is attached hereto as Exhibit A.

7. Amazon's Drugs, Drug Paraphernalia & Dietary Supplements policy prohibits sales of "[g]rowth hormones or products that claim to support or promote growth hormone production."

8. In offering SeroVital for sale on Amazon.com, Plaintiffs violated Amazon's Drugs, Drug Paraphernalia, and Dietary Supplements policy because Plaintiffs make claims that SeroVital increases the production of human growth hormone.

9. Amazon uses a variety of proprietary automated and manual processes to locate prohibited products placed for sale on the Amazon.com site by third-party sellers. When Amazon identifies a prohibited item, the third-party seller is notified and Amazon removes the product from Amazon.com.

10. On December 12, 2012, Amazon removed the Serovital product from Amazon.com for violating Amazon's policy prohibiting the sale of products that claim to

increase the production of growth hormone. On July 18, 2014, Amazon learned that the Serovital product had been listed again on Amazon.com, this time by a reseller of the product. Amazon immediately removed the listing.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED at Seattle, Washington this 18 th day of July, 2014.



Ross Rachev

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2014, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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DATED : July 22, 2014

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